

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

REPLY COMMENTS OF HYPERCUBE TELECOM, LLC
ON FURTHER INQUIRY PUBLIC NOTICE

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HyperCube Telecom, LLC (“HyperCube”) files these reply comments on the Federal Communication Commission’s (“FCC” or “Commission”) Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding (“Further Inquiry”), Public Notice No. DA 11-1348.¹

I. THE FCC HAS LEGAL AUTHORITY UNDER SECTIONS 251(A), 201(A), AND 256 OF THE ACT TO REQUIRE IP-TO-IP INTERCONNECTION OF ALL PROVIDERS

In its Comments of HyperCube Telecom, LLC on Further Inquiry Public Notice, filed August 24, 2011 (“HyperCube Further Inquiry Comments”), HyperCube showed that the Commission has legal authority under Sections 251(a), 201(a) and 256 of the Act to impose IP-to-IP interconnection on all providers. (HyperCube Further Inquiry Comments at 8-11). HyperCube notes that Google is among the several commenters making similar points. HyperCube agrees with Google’s Comments that:

Sections 251(a) and 256 create an obligation for all telecommunications carriers “to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers,” as well as “to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.”

. . . . Nothing in the Act’s language suggests that IP-based networks should be treated differently for interconnection purposes from TDM-based networks. . . .²

HyperCube recently observed some press reports that incorrectly reported that in meetings that took place on August 31, 2011 with Commissioner McDowell, his legal advisor

¹ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation System, et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Dockets No. 01-92, 96-45, Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding, DA 11-1348, (rel. Aug. 3, 2011).

² Comments of Google Inc., August 24, 2011, at 20-21.

Erin McGrath, and Margaret McCarthy, Policy Advisor to Commissioner Copps, HyperCube advocated IP-to-IP interconnection *pursuant to section 251(c)*. To clear up this misunderstanding, as HyperCube's ex parte filings, dated September 1, 2011 make clear, HyperCube argued that the Commission should impose direct and *indirect* IP-IP interconnection pursuant to section 251(a) in these meetings, not section 251(c).³ HyperCube also noted that the Commission has authority to impose IP-to-IP interconnection under sections 201(a) and 256(a), in addition to section 251(a).⁴ In fact, HyperCube has consistently advocated direct and indirect interconnection under section 251(a) throughout these proceedings (as opposed to section 251(c)(2)).⁵

II. IP INTERCONNECTION DISPUTES SHOULD BE RESOLVED BY REGULATORS

HyperCube also agrees with Google that the Commission "should ensure adequate regulatory oversight and a dispute resolution mechanism should problems arise [in IP interconnection]. For example, in circumstances where a local carrier refuses in bad faith to interconnect or discriminates against another provider, regulators should assist in resolving these disputes."⁶ Sprint likewise recognizes that: "The Commission should confirm that its complaint

³ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation System, et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Dockets No. 01-92, 96-45, Ex Parte Comments of HyperCube, at slides 2-3 (Sept. 1, 2011).

⁴ *Id.* at slide 3.

⁵ *See, e.g., In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation System, et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Dockets No. 01-92, 96-45, Comments of HyperCube, at 5-6 (Aug. 24, 2011) ("In order to accelerate the transition to IP networks and remove regulatory uncertainty that impedes investment in IP networks, the FCC should establish new rules that clarify existing obligations and require all providers to interconnect either directly or indirectly (through a network bridge provider), at any technically feasible point" under section 251(a).)

⁶ *Id.* at 21.

remedy is available to resolve IP voice interconnection disputes, including refusals to negotiate in good faith.”⁷ Although HyperCube has advocated that the FCC resolve multi-state disputes while the PUCs resolve single state disputes,⁸ the important point on which HyperCube, Google, Sprint and others are in agreement is that a regulatory agency must be available to resolve disputes regarding IP interconnection. Otherwise, some carriers will be able to force others to adopt network architecture and interconnection arrangements that are inconsistent with or that discourage deployment of highly efficient IP networks.

III. TO PREVENT PHANTOM TRAFFIC, THE COMMISSION SHOULD REQUIRE PROVISION OF SUFFICIENT CALL DETAIL

HyperCube has shown that requiring carriers to populate the Jurisdictional Information Parameter (“JIP”) in call detail would reduce phantom traffic issues.⁹ PAETEC has offered a somewhat different approach, suggesting that “to address phantom traffic problems where one-way VoIP providers do not assign NANP telephone numbers, the FCC should require all carriers and VoIP providers to (1) pass Carrier Identification Code (‘CIC’) or OCN in call signaling or record data and (2) apply the Entry/Exit Surrogate (‘EES’) to rate VoIP traffic.”¹⁰ While HyperCube believes that the JIP approach it previously advocated is more readily implemented, HyperCube endorses the approach proposed by PAETEC where feasible and not unduly costly.

IV. TANDEM TRANSIT SERVICE SHOULD NOT BE SUBJECT TO REGULATION

Cbeyond *et al.* argue that “the market for tandem transit services is not effectively competitive,” ILECs have offered tandem transit service “at rates well above cost,” and that the

⁷ Comments of Sprint Nextel Corp., August 24, 2011, at 6.

⁸ HyperCube Further Inquiry Comments at 14-16.

⁹ HyperCube Further Inquiry Comments at 16-18.

¹⁰ Comments of PAETEC Holding Corp. on Further Inquiry Public Notice, August 24, 2011, at iii.

Commission should require ILECs to provide tandem transit service at TELRIC-based rates.¹¹ HyperCube offers competitive tandem transit services in numerous locations, as do others, such as Neutral Tandem, Peerless and some RBOC affiliates operating outside the RBOC's region. Competitive providers of tandem transit services operate in competition with the ILEC in virtually every major market and therefore compete for traffic against the ILEC rate structure.

HyperCube therefore believes that a market-based approach is appropriate. And HyperCube strongly disagrees that regulation should be imposed on tandem transit services wherever the market is sufficiently competitive. In such areas, any dispute over rates can either be remedied by the selection and use of a competitive alternative, or can be remedied through the dispute-resolution process of the Commission or of the applicable State PUC.

V. CONCLUSION

HyperCube respectfully requests that the Commission issue an order in this matter consistent with HyperCube's comments herein and its previous filings in these dockets.

Respectfully submitted,

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